



Judiciary II - Criminal Law Committee

Filed: 11/16/2010

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1 AMENDMENT TO SENATE BILL 389

2 AMENDMENT NO. _____. Amend Senate Bill 389 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Employment Security Law of
5 the Civil Administrative Code of Illinois is amended by adding
6 Section 1005-165 as follows:

7 (20 ILCS 1005/1005-165 new)

8 Sec. 1005-165. Re-entry services program. The Department
9 of Employment Security shall establish a re-entry services
10 program to assist persons wrongfully imprisoned, as defined in
11 Section 3-1-2 of the Unified Code of Corrections, in obtaining
12 job placement for up to 5 years after release from prison, or
13 if the person wrongfully imprisoned was released from prison
14 before the effective date of this amendatory Act of the 96th
15 General Assembly, for up to 5 years after the person informs
16 the Department that he or she seeks the assistance provided for

1 under this Section. The Department shall promulgate rules, no
2 later than July 1, 2011, establishing the eligibility of
3 wrongfully imprisoned persons for the Department's re-entry
4 services program.

5 Section 10. The Department of Healthcare and Family
6 Services Law of the Civil Administrative Code of Illinois is
7 amended by adding Section 2205-20 as follows:

8 (20 ILCS 2205/2205-20 new)

9 Sec. 2205-20. Re-entry services program. The Department of
10 Healthcare and Family Services shall establish a re-entry
11 services program to assist persons wrongfully imprisoned, as
12 defined in Section 3-1-2 of the Unified Code of Corrections, in
13 obtaining mental health services, including services for
14 post-traumatic stress, at an agreed-upon mental health
15 facility at no charge for up to 3 years after release from
16 prison, or if the person wrongfully imprisoned was released
17 from prison before the effective date of this amendatory Act of
18 the 96th General Assembly, for up to 3 years after the person
19 informs the Department that he or she seeks the assistance
20 provided for under this Section. The Department shall
21 promulgate rules, no later than July 1, 2011, establishing the
22 eligibility of wrongfully imprisoned persons for the
23 Department's re-entry services program.

1 Section 15. The Illinois Public Aid Code is amended by
2 changing Section 5-2 as follows:

3 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

4 Sec. 5-2. Classes of Persons Eligible. Medical assistance
5 under this Article shall be available to any of the following
6 classes of persons in respect to whom a plan for coverage has
7 been submitted to the Governor by the Illinois Department and
8 approved by him:

9 1. Recipients of basic maintenance grants under
10 Articles III and IV.

11 2. Persons otherwise eligible for basic maintenance
12 under Articles III and IV, excluding any eligibility
13 requirements that are inconsistent with any federal law or
14 federal regulation, as interpreted by the U.S. Department
15 of Health and Human Services, but who fail to qualify
16 thereunder on the basis of need or who qualify but are not
17 receiving basic maintenance under Article IV, and who have
18 insufficient income and resources to meet the costs of
19 necessary medical care, including but not limited to the
20 following:

21 (a) All persons otherwise eligible for basic
22 maintenance under Article III but who fail to qualify
23 under that Article on the basis of need and who meet
24 either of the following requirements:

25 (i) their income, as determined by the

1 Illinois Department in accordance with any federal
2 requirements, is equal to or less than 70% in
3 fiscal year 2001, equal to or less than 85% in
4 fiscal year 2002 and until a date to be determined
5 by the Department by rule, and equal to or less
6 than 100% beginning on the date determined by the
7 Department by rule, of the nonfarm income official
8 poverty line, as defined by the federal Office of
9 Management and Budget and revised annually in
10 accordance with Section 673(2) of the Omnibus
11 Budget Reconciliation Act of 1981, applicable to
12 families of the same size; or

13 (ii) their income, after the deduction of
14 costs incurred for medical care and for other types
15 of remedial care, is equal to or less than 70% in
16 fiscal year 2001, equal to or less than 85% in
17 fiscal year 2002 and until a date to be determined
18 by the Department by rule, and equal to or less
19 than 100% beginning on the date determined by the
20 Department by rule, of the nonfarm income official
21 poverty line, as defined in item (i) of this
22 subparagraph (a).

23 (b) All persons who, excluding any eligibility
24 requirements that are inconsistent with any federal
25 law or federal regulation, as interpreted by the U.S.
26 Department of Health and Human Services, would be

1 determined eligible for such basic maintenance under
2 Article IV by disregarding the maximum earned income
3 permitted by federal law.

4 3. Persons who would otherwise qualify for Aid to the
5 Medically Indigent under Article VII.

6 4. Persons not eligible under any of the preceding
7 paragraphs who fall sick, are injured, or die, not having
8 sufficient money, property or other resources to meet the
9 costs of necessary medical care or funeral and burial
10 expenses.

11 5.(a) Women during pregnancy, after the fact of
12 pregnancy has been determined by medical diagnosis, and
13 during the 60-day period beginning on the last day of the
14 pregnancy, together with their infants and children born
15 after September 30, 1983, whose income and resources are
16 insufficient to meet the costs of necessary medical care to
17 the maximum extent possible under Title XIX of the Federal
18 Social Security Act.

19 (b) The Illinois Department and the Governor shall
20 provide a plan for coverage of the persons eligible under
21 paragraph 5(a) by April 1, 1990. Such plan shall provide
22 ambulatory prenatal care to pregnant women during a
23 presumptive eligibility period and establish an income
24 eligibility standard that is equal to 133% of the nonfarm
25 income official poverty line, as defined by the federal
26 Office of Management and Budget and revised annually in

1 accordance with Section 673(2) of the Omnibus Budget
2 Reconciliation Act of 1981, applicable to families of the
3 same size, provided that costs incurred for medical care
4 are not taken into account in determining such income
5 eligibility.

6 (c) The Illinois Department may conduct a
7 demonstration in at least one county that will provide
8 medical assistance to pregnant women, together with their
9 infants and children up to one year of age, where the
10 income eligibility standard is set up to 185% of the
11 nonfarm income official poverty line, as defined by the
12 federal Office of Management and Budget. The Illinois
13 Department shall seek and obtain necessary authorization
14 provided under federal law to implement such a
15 demonstration. Such demonstration may establish resource
16 standards that are not more restrictive than those
17 established under Article IV of this Code.

18 6. Persons under the age of 18 who fail to qualify as
19 dependent under Article IV and who have insufficient income
20 and resources to meet the costs of necessary medical care
21 to the maximum extent permitted under Title XIX of the
22 Federal Social Security Act.

23 7. Persons who are under 21 years of age and would
24 qualify as disabled as defined under the Federal
25 Supplemental Security Income Program, provided medical
26 service for such persons would be eligible for Federal

1 Financial Participation, and provided the Illinois
2 Department determines that:

3 (a) the person requires a level of care provided by
4 a hospital, skilled nursing facility, or intermediate
5 care facility, as determined by a physician licensed to
6 practice medicine in all its branches;

7 (b) it is appropriate to provide such care outside
8 of an institution, as determined by a physician
9 licensed to practice medicine in all its branches;

10 (c) the estimated amount which would be expended
11 for care outside the institution is not greater than
12 the estimated amount which would be expended in an
13 institution.

14 8. Persons who become ineligible for basic maintenance
15 assistance under Article IV of this Code in programs
16 administered by the Illinois Department due to employment
17 earnings and persons in assistance units comprised of
18 adults and children who become ineligible for basic
19 maintenance assistance under Article VI of this Code due to
20 employment earnings. The plan for coverage for this class
21 of persons shall:

22 (a) extend the medical assistance coverage for up
23 to 12 months following termination of basic
24 maintenance assistance; and

25 (b) offer persons who have initially received 6
26 months of the coverage provided in paragraph (a) above,

1 the option of receiving an additional 6 months of
2 coverage, subject to the following:

3 (i) such coverage shall be pursuant to
4 provisions of the federal Social Security Act;

5 (ii) such coverage shall include all services
6 covered while the person was eligible for basic
7 maintenance assistance;

8 (iii) no premium shall be charged for such
9 coverage; and

10 (iv) such coverage shall be suspended in the
11 event of a person's failure without good cause to
12 file in a timely fashion reports required for this
13 coverage under the Social Security Act and
14 coverage shall be reinstated upon the filing of
15 such reports if the person remains otherwise
16 eligible.

17 9. Persons with acquired immunodeficiency syndrome
18 (AIDS) or with AIDS-related conditions with respect to whom
19 there has been a determination that but for home or
20 community-based services such individuals would require
21 the level of care provided in an inpatient hospital,
22 skilled nursing facility or intermediate care facility the
23 cost of which is reimbursed under this Article. Assistance
24 shall be provided to such persons to the maximum extent
25 permitted under Title XIX of the Federal Social Security
26 Act.

1 10. Participants in the long-term care insurance
2 partnership program established under the Illinois
3 Long-Term Care Partnership Program Act who meet the
4 qualifications for protection of resources described in
5 Section 15 of that Act.

6 11. Persons with disabilities who are employed and
7 eligible for Medicaid, pursuant to Section
8 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,
9 subject to federal approval, persons with a medically
10 improved disability who are employed and eligible for
11 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of
12 the Social Security Act, as provided by the Illinois
13 Department by rule. In establishing eligibility standards
14 under this paragraph 11, the Department shall, subject to
15 federal approval:

16 (a) set the income eligibility standard at not
17 lower than 350% of the federal poverty level;

18 (b) exempt retirement accounts that the person
19 cannot access without penalty before the age of 59 1/2,
20 and medical savings accounts established pursuant to
21 26 U.S.C. 220;

22 (c) allow non-exempt assets up to \$25,000 as to
23 those assets accumulated during periods of eligibility
24 under this paragraph 11; and

25 (d) continue to apply subparagraphs (b) and (c) in
26 determining the eligibility of the person under this

1 Article even if the person loses eligibility under this
2 paragraph 11.

3 12. Subject to federal approval, persons who are
4 eligible for medical assistance coverage under applicable
5 provisions of the federal Social Security Act and the
6 federal Breast and Cervical Cancer Prevention and
7 Treatment Act of 2000. Those eligible persons are defined
8 to include, but not be limited to, the following persons:

9 (1) persons who have been screened for breast or
10 cervical cancer under the U.S. Centers for Disease
11 Control and Prevention Breast and Cervical Cancer
12 Program established under Title XV of the federal
13 Public Health Services Act in accordance with the
14 requirements of Section 1504 of that Act as
15 administered by the Illinois Department of Public
16 Health; and

17 (2) persons whose screenings under the above
18 program were funded in whole or in part by funds
19 appropriated to the Illinois Department of Public
20 Health for breast or cervical cancer screening.

21 "Medical assistance" under this paragraph 12 shall be
22 identical to the benefits provided under the State's
23 approved plan under Title XIX of the Social Security Act.
24 The Department must request federal approval of the
25 coverage under this paragraph 12 within 30 days after the
26 effective date of this amendatory Act of the 92nd General

1 Assembly.

2 In addition to the persons who are eligible for medical
3 assistance pursuant to subparagraphs (1) and (2) of this
4 paragraph 12, and to be paid from funds appropriated to the
5 Department for its medical programs, any uninsured person
6 as defined by the Department in rules residing in Illinois
7 who is younger than 65 years of age, who has been screened
8 for breast and cervical cancer in accordance with standards
9 and procedures adopted by the Department of Public Health
10 for screening, and who is referred to the Department by the
11 Department of Public Health as being in need of treatment
12 for breast or cervical cancer is eligible for medical
13 assistance benefits that are consistent with the benefits
14 provided to those persons described in subparagraphs (1)
15 and (2). Medical assistance coverage for the persons who
16 are eligible under the preceding sentence is not dependent
17 on federal approval, but federal moneys may be used to pay
18 for services provided under that coverage upon federal
19 approval.

20 13. Subject to appropriation and to federal approval,
21 persons living with HIV/AIDS who are not otherwise eligible
22 under this Article and who qualify for services covered
23 under Section 5-5.04 as provided by the Illinois Department
24 by rule.

25 14. Subject to the availability of funds for this
26 purpose, the Department may provide coverage under this

1 Article to persons who reside in Illinois who are not
2 eligible under any of the preceding paragraphs and who meet
3 the income guidelines of paragraph 2(a) of this Section and
4 (i) have an application for asylum pending before the
5 federal Department of Homeland Security or on appeal before
6 a court of competent jurisdiction and are represented
7 either by counsel or by an advocate accredited by the
8 federal Department of Homeland Security and employed by a
9 not-for-profit organization in regard to that application
10 or appeal, or (ii) are receiving services through a
11 federally funded torture treatment center. Medical
12 coverage under this paragraph 14 may be provided for up to
13 24 continuous months from the initial eligibility date so
14 long as an individual continues to satisfy the criteria of
15 this paragraph 14. If an individual has an appeal pending
16 regarding an application for asylum before the Department
17 of Homeland Security, eligibility under this paragraph 14
18 may be extended until a final decision is rendered on the
19 appeal. The Department may adopt rules governing the
20 implementation of this paragraph 14.

21 15. Family Care Eligibility.

22 (a) A caretaker relative who is 19 years of age or
23 older when countable income is at or below 185% of the
24 Federal Poverty Level Guidelines, as published
25 annually in the Federal Register, for the appropriate
26 family size. A person may not spend down to become

1 eligible under this paragraph 15.

2 (b) Eligibility shall be reviewed annually.

3 (c) Caretaker relatives enrolled under this
4 paragraph 15 in families with countable income above
5 150% and at or below 185% of the Federal Poverty Level
6 Guidelines shall be counted as family members and pay
7 premiums as established under the Children's Health
8 Insurance Program Act.

9 (d) Premiums shall be billed by and payable to the
10 Department or its authorized agent, on a monthly basis.

11 (e) The premium due date is the last day of the
12 month preceding the month of coverage.

13 (f) Individuals shall have a grace period through
14 30 days of coverage to pay the premium.

15 (g) Failure to pay the full monthly premium by the
16 last day of the grace period shall result in
17 termination of coverage.

18 (h) Partial premium payments shall not be
19 refunded.

20 (i) Following termination of an individual's
21 coverage under this paragraph 15, the following action
22 is required before the individual can be re-enrolled:

23 (1) A new application must be completed and the
24 individual must be determined otherwise eligible.

25 (2) There must be full payment of premiums due
26 under this Code, the Children's Health Insurance

1 Program Act, the Covering ALL KIDS Health
2 Insurance Act, or any other healthcare program
3 administered by the Department for periods in
4 which a premium was owed and not paid for the
5 individual.

6 (3) The first month's premium must be paid if
7 there was an unpaid premium on the date the
8 individual's previous coverage was canceled.

9 The Department is authorized to implement the
10 provisions of this amendatory Act of the 95th General
11 Assembly by adopting the medical assistance rules in effect
12 as of October 1, 2007, at 89 Ill. Admin. Code 125, and at
13 89 Ill. Admin. Code 120.32 along with only those changes
14 necessary to conform to federal Medicaid requirements,
15 federal laws, and federal regulations, including but not
16 limited to Section 1931 of the Social Security Act (42
17 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department
18 of Health and Human Services, and the countable income
19 eligibility standard authorized by this paragraph 15. The
20 Department may not otherwise adopt any rule to implement
21 this increase except as authorized by law, to meet the
22 eligibility standards authorized by the federal government
23 in the Medicaid State Plan or the Title XXI Plan, or to
24 meet an order from the federal government or any court.

25 16. Subject to appropriation, uninsured persons who
26 are not otherwise eligible under this Section who have been

1 certified and referred by the Department of Public Health
2 as having been screened and found to need diagnostic
3 evaluation or treatment, or both diagnostic evaluation and
4 treatment, for prostate or testicular cancer. For the
5 purposes of this paragraph 16, uninsured persons are those
6 who do not have creditable coverage, as defined under the
7 Health Insurance Portability and Accountability Act, or
8 have otherwise exhausted any insurance benefits they may
9 have had, for prostate or testicular cancer diagnostic
10 evaluation or treatment, or both diagnostic evaluation and
11 treatment. To be eligible, a person must furnish a Social
12 Security number. A person's assets are exempt from
13 consideration in determining eligibility under this
14 paragraph 16. Such persons shall be eligible for medical
15 assistance under this paragraph 16 for so long as they need
16 treatment for the cancer. A person shall be considered to
17 need treatment if, in the opinion of the person's treating
18 physician, the person requires therapy directed toward
19 cure or palliation of prostate or testicular cancer,
20 including recurrent metastatic cancer that is a known or
21 presumed complication of prostate or testicular cancer and
22 complications resulting from the treatment modalities
23 themselves. Persons who require only routine monitoring
24 services are not considered to need treatment. "Medical
25 assistance" under this paragraph 16 shall be identical to
26 the benefits provided under the State's approved plan under

1 Title XIX of the Social Security Act. Notwithstanding any
2 other provision of law, the Department (i) does not have a
3 claim against the estate of a deceased recipient of
4 services under this paragraph 16 and (ii) does not have a
5 lien against any homestead property or other legal or
6 equitable real property interest owned by a recipient of
7 services under this paragraph 16.

8 17. Subject to appropriation, uninsured persons who
9 are not otherwise eligible under this Section who: (i) have
10 been wrongfully imprisoned by the State of Illinois, as
11 defined in Section 3-1-2 of the Unified Code of
12 Corrections, or received a pardon from the Governor stating
13 that such pardon was issued on the ground of innocence of
14 the crime for which he or she was imprisoned; and (ii) have
15 been released from prison. The Department shall promulgate
16 specific rules governing eligibility and coverage of this
17 class of persons.

18 In implementing the provisions of Public Act 96-20, the
19 Department is authorized to adopt only those rules necessary,
20 including emergency rules. Nothing in Public Act 96-20 permits
21 the Department to adopt rules or issue a decision that expands
22 eligibility for the FamilyCare Program to a person whose income
23 exceeds 185% of the Federal Poverty Level as determined from
24 time to time by the U.S. Department of Health and Human
25 Services, unless the Department is provided with express
26 statutory authority.

1 The Illinois Department and the Governor shall provide a
2 plan for coverage of the persons eligible under paragraph 7 as
3 soon as possible after July 1, 1984.

4 The eligibility of any such person for medical assistance
5 under this Article is not affected by the payment of any grant
6 under the Senior Citizens and Disabled Persons Property Tax
7 Relief and Pharmaceutical Assistance Act or any distributions
8 or items of income described under subparagraph (X) of
9 paragraph (2) of subsection (a) of Section 203 of the Illinois
10 Income Tax Act. The Department shall by rule establish the
11 amounts of assets to be disregarded in determining eligibility
12 for medical assistance, which shall at a minimum equal the
13 amounts to be disregarded under the Federal Supplemental
14 Security Income Program. The amount of assets of a single
15 person to be disregarded shall not be less than \$2,000, and the
16 amount of assets of a married couple to be disregarded shall
17 not be less than \$3,000.

18 To the extent permitted under federal law, any person found
19 guilty of a second violation of Article VIII A shall be
20 ineligible for medical assistance under this Article, as
21 provided in Section 8A-8.

22 The eligibility of any person for medical assistance under
23 this Article shall not be affected by the receipt by the person
24 of donations or benefits from fundraisers held for the person
25 in cases of serious illness, as long as neither the person nor
26 members of the person's family have actual control over the

1 donations or benefits or the disbursement of the donations or
2 benefits.

3 (Source: P.A. 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09;
4 96-20, eff. 6-30-09; 96-181, eff. 8-10-09; 96-328, eff.
5 8-11-09; 96-567, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1123,
6 eff. 1-1-11; 96-1270, eff. 7-26-10; revised 9-16-10.)

7 Section 20. The Unified Code of Corrections is amended by
8 changing Sections 3-1-2 and 3-14-1 as follows:

9 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

10 Sec. 3-1-2. Definitions.

11 (a) "Chief Administrative Officer" means the person
12 designated by the Director to exercise the powers and duties of
13 the Department of Corrections in regard to committed persons
14 within a correctional institution or facility, and includes the
15 superintendent of any juvenile institution or facility.

16 (a-5) "Sex offense" for the purposes of paragraph (16) of
17 subsection (a) of Section 3-3-7, paragraph (10) of subsection
18 (a) of Section 5-6-3, and paragraph (18) of subsection (c) of
19 Section 5-6-3.1 only means:

20 (i) A violation of any of the following Sections of the
21 Criminal Code of 1961: 10-7 (aiding or abetting child
22 abduction under Section 10-5(b)(10)), 10-5(b)(10) (child
23 luring), 11-6 (indecent solicitation of a child), 11-6.5
24 (indecent solicitation of an adult), 11-15.1 (soliciting

1 for a juvenile prostitute), 11-17.1 (keeping a place of
2 juvenile prostitution), 11-18.1 (patronizing a juvenile
3 prostitute), 11-19.1 (juvenile pimping), 11-19.2
4 (exploitation of a child), 11-20.1 (child pornography),
5 12-14.1 (predatory criminal sexual assault of a child), or
6 12-33 (ritualized abuse of a child). An attempt to commit
7 any of these offenses.

8 (ii) A violation of any of the following Sections of
9 the Criminal Code of 1961: 12-13 (criminal sexual assault),
10 12-14 (aggravated criminal sexual assault), 12-16
11 (aggravated criminal sexual abuse), and subsection (a) of
12 Section 12-15 (criminal sexual abuse). An attempt to commit
13 any of these offenses.

14 (iii) A violation of any of the following Sections of
15 the Criminal Code of 1961 when the defendant is not a
16 parent of the victim:

- 17 10-1 (kidnapping),
- 18 10-2 (aggravated kidnapping),
- 19 10-3 (unlawful restraint),
- 20 10-3.1 (aggravated unlawful restraint).

21 An attempt to commit any of these offenses.

22 (iv) A violation of any former law of this State
23 substantially equivalent to any offense listed in this
24 subsection (a-5).

25 An offense violating federal law or the law of another
26 state that is substantially equivalent to any offense listed in

1 this subsection (a-5) shall constitute a sex offense for the
2 purpose of this subsection (a-5). A finding or adjudication as
3 a sexually dangerous person under any federal law or law of
4 another state that is substantially equivalent to the Sexually
5 Dangerous Persons Act shall constitute an adjudication for a
6 sex offense for the purposes of this subsection (a-5).

7 (b) "Commitment" means a judicially determined placement
8 in the custody of the Department of Corrections on the basis of
9 delinquency or conviction.

10 (c) "Committed Person" is a person committed to the
11 Department, however a committed person shall not be considered
12 to be an employee of the Department of Corrections for any
13 purpose, including eligibility for a pension, benefits, or any
14 other compensation or rights or privileges which may be
15 provided to employees of the Department.

16 (c-5) "Computer scrub software" means any third-party
17 added software, designed to delete information from the
18 computer unit, the hard drive, or other software, which would
19 eliminate and prevent discovery of browser activity, including
20 but not limited to Internet history, address bar or bars, cache
21 or caches, and/or cookies, and which would over-write files in
22 a way so as to make previous computer activity, including but
23 not limited to website access, more difficult to discover.

24 (d) "Correctional Institution or Facility" means any
25 building or part of a building where committed persons are kept
26 in a secured manner.

1 (e) In the case of functions performed before the effective
2 date of this amendatory Act of the 94th General Assembly,
3 "Department" means the Department of Corrections of this State.
4 In the case of functions performed on or after the effective
5 date of this amendatory Act of the 94th General Assembly,
6 "Department" has the meaning ascribed to it in subsection
7 (f-5).

8 (f) In the case of functions performed before the effective
9 date of this amendatory Act of the 94th General Assembly,
10 "Director" means the Director of the Department of Corrections.
11 In the case of functions performed on or after the effective
12 date of this amendatory Act of the 94th General Assembly,
13 "Director" has the meaning ascribed to it in subsection (f-5).

14 (f-5) In the case of functions performed on or after the
15 effective date of this amendatory Act of the 94th General
16 Assembly, references to "Department" or "Director" refer to
17 either the Department of Corrections or the Director of
18 Corrections or to the Department of Juvenile Justice or the
19 Director of Juvenile Justice unless the context is specific to
20 the Department of Juvenile Justice or the Director of Juvenile
21 Justice.

22 (g) "Discharge" means the final termination of a commitment
23 to the Department of Corrections.

24 (h) "Discipline" means the rules and regulations for the
25 maintenance of order and the protection of persons and property
26 within the institutions and facilities of the Department and

1 their enforcement.

2 (i) "Escape" means the intentional and unauthorized
3 absence of a committed person from the custody of the
4 Department.

5 (j) "Furlough" means an authorized leave of absence from
6 the Department of Corrections for a designated purpose and
7 period of time.

8 (k) "Parole" means the conditional and revocable release of
9 a committed person under the supervision of a parole officer.

10 (l) "Prisoner Review Board" means the Board established in
11 Section 3-3-1(a), independent of the Department, to review
12 rules and regulations with respect to good time credits, to
13 hear charges brought by the Department against certain
14 prisoners alleged to have violated Department rules with
15 respect to good time credits, to set release dates for certain
16 prisoners sentenced under the law in effect prior to the
17 effective date of this Amendatory Act of 1977, to hear requests
18 and make recommendations to the Governor with respect to
19 pardon, reprieve or commutation, to set conditions for parole
20 and mandatory supervised release and determine whether
21 violations of those conditions justify revocation of parole or
22 release, and to assume all other functions previously exercised
23 by the Illinois Parole and Pardon Board.

24 (m) Whenever medical treatment, service, counseling, or
25 care is referred to in this Unified Code of Corrections, such
26 term may be construed by the Department or Court, within its

1 discretion, to include treatment, service or counseling by a
2 Christian Science practitioner or nursing care appropriate
3 therewith whenever request therefor is made by a person subject
4 to the provisions of this Act.

5 (n) "Victim" shall have the meaning ascribed to it in
6 subsection (a) of Section 3 of the Bill of Rights for Victims
7 and Witnesses of Violent Crime Act.

8 (o) "Wrongfully imprisoned person" means a person:

9 (1) who was convicted of one or more felonies by
10 the State of Illinois and subsequently sentenced to a
11 term of imprisonment, and has served all or any part of
12 the sentence;

13 (2) (A) whose judgment of conviction was reversed
14 or vacated, and the indictment or information
15 dismissed or, if a new trial was ordered, either the
16 person was found not guilty at the new trial or the
17 person was not retried and the indictment or
18 information dismissed; or (B) whose indictment or
19 information was based on a statute, or application
20 thereof, which violated the Constitution of the United
21 States or the State of Illinois;

22 (3) who is innocent of the offenses charged in the
23 indictment or information or his or her acts or
24 omissions charged in the indictment or information did
25 not constitute a felony or misdemeanor against the
26 State; and

1 (4) who did not by his or her own conduct
2 voluntarily cause or bring about his or her conviction.

3 (Source: P.A. 96-362, eff. 1-1-10; 96-710, eff. 1-1-10;
4 96-1000, eff. 7-2-10.)

5 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)
6 Sec. 3-14-1. Release from the Institution.

7 (a) Upon release of a person on parole, mandatory release,
8 final discharge or pardon the Department shall return all
9 property held for him, provide him with suitable clothing and
10 procure necessary transportation for him to his designated
11 place of residence and employment. It may provide such person
12 with a grant of money for travel and expenses which may be paid
13 in installments. The amount of the money grant shall be
14 determined by the Department.

15 (a-1) The Department shall, before a wrongfully imprisoned
16 person, as defined in Section 3-1-2 of this Code, is discharged
17 from the Department, provide him or her with any documents
18 necessary after discharge, including an identification card
19 under subsection (e) of this Section.

20 (a-2) The Department of Corrections may establish and
21 maintain, in any institution it administers, revolving funds to
22 be known as "Travel and Allowances Revolving Funds". These
23 revolving funds shall be used for advancing travel and expense
24 allowances to committed, paroled, and discharged prisoners.
25 The moneys paid into such revolving funds shall be from

1 appropriations to the Department for Committed, Paroled, and
2 Discharged Prisoners.

3 (b) (Blank).

4 (c) Except as otherwise provided in this Code, the
5 Department shall establish procedures to provide written
6 notification of any release of any person who has been
7 convicted of a felony to the State's Attorney and sheriff of
8 the county from which the offender was committed, and the
9 State's Attorney and sheriff of the county into which the
10 offender is to be paroled or released. Except as otherwise
11 provided in this Code, the Department shall establish
12 procedures to provide written notification to the proper law
13 enforcement agency for any municipality of any release of any
14 person who has been convicted of a felony if the arrest of the
15 offender or the commission of the offense took place in the
16 municipality, if the offender is to be paroled or released into
17 the municipality, or if the offender resided in the
18 municipality at the time of the commission of the offense. If a
19 person convicted of a felony who is in the custody of the
20 Department of Corrections or on parole or mandatory supervised
21 release informs the Department that he or she has resided,
22 resides, or will reside at an address that is a housing
23 facility owned, managed, operated, or leased by a public
24 housing agency, the Department must send written notification
25 of that information to the public housing agency that owns,
26 manages, operates, or leases the housing facility. The written

1 notification shall, when possible, be given at least 14 days
2 before release of the person from custody, or as soon
3 thereafter as possible.

4 (c-1) (Blank).

5 (c-5) If a person on parole or mandatory supervised release
6 becomes a resident of a facility licensed or regulated by the
7 Department of Public Health, the Illinois Department of Public
8 Aid, or the Illinois Department of Human Services, the
9 Department of Corrections shall provide copies of the following
10 information to the appropriate licensing or regulating
11 Department and the licensed or regulated facility where the
12 person becomes a resident:

13 (1) The mittimus and any pre-sentence investigation
14 reports.

15 (2) The social evaluation prepared pursuant to Section
16 3-8-2.

17 (3) Any pre-release evaluation conducted pursuant to
18 subsection (j) of Section 3-6-2.

19 (4) Reports of disciplinary infractions and
20 dispositions.

21 (5) Any parole plan, including orders issued by the
22 Prisoner Review Board, and any violation reports and
23 dispositions.

24 (6) The name and contact information for the assigned
25 parole agent and parole supervisor.

26 This information shall be provided within 3 days of the

1 person becoming a resident of the facility.

2 (c-10) If a person on parole or mandatory supervised
3 release becomes a resident of a facility licensed or regulated
4 by the Department of Public Health, the Illinois Department of
5 Public Aid, or the Illinois Department of Human Services, the
6 Department of Corrections shall provide written notification
7 of such residence to the following:

8 (1) The Prisoner Review Board.

9 (2) The chief of police and sheriff in the municipality
10 and county in which the licensed facility is located.

11 The notification shall be provided within 3 days of the
12 person becoming a resident of the facility.

13 (d) Upon the release of a committed person on parole,
14 mandatory supervised release, final discharge or pardon, the
15 Department shall provide such person with information
16 concerning programs and services of the Illinois Department of
17 Public Health to ascertain whether such person has been exposed
18 to the human immunodeficiency virus (HIV) or any identified
19 causative agent of Acquired Immunodeficiency Syndrome (AIDS).

20 (e) Upon the release of a committed person on parole,
21 mandatory supervised release, final discharge, ~~or~~ pardon, or
22 who has been wrongfully imprisoned, the Department shall
23 provide the person who has met the criteria established by the
24 Department with an identification card identifying the person
25 as being on parole, mandatory supervised release, final
26 discharge, ~~or~~ pardon, or wrongfully imprisoned, as the case may

1 be. The Department, in consultation with the Office of the
2 Secretary of State, shall prescribe the form of the
3 identification card, which may be similar to the form of the
4 standard Illinois Identification Card. The Department shall
5 inform the committed person that he or she may present the
6 identification card to the Office of the Secretary of State
7 upon application for a standard Illinois Identification Card in
8 accordance with the Illinois Identification Card Act. The
9 Department shall require the committed person to pay a \$1 fee
10 for the identification card.

11 For purposes of a committed person receiving an
12 identification card issued by the Department under this
13 subsection, the Department shall establish criteria that the
14 committed person must meet before the card is issued. It is the
15 sole responsibility of the committed person requesting the
16 identification card issued by the Department to meet the
17 established criteria. The person's failure to meet the criteria
18 is sufficient reason to deny the committed person the
19 identification card. An identification card issued by the
20 Department under this subsection shall be valid for a period of
21 time not to exceed 30 calendar days from the date the card is
22 issued. The Department shall not be held civilly or criminally
23 liable to anyone because of any act of any person utilizing a
24 card issued by the Department under this subsection.

25 The Department shall adopt rules governing the issuance of
26 identification cards to committed persons being released on

1 parole, mandatory supervised release, final discharge, or
2 pardon.

3 (Source: P.A. 94-163, eff. 7-11-05.)

4 Section 25. The Code of Civil Procedure is amended by
5 changing Section 2-702 as follows:

6 (735 ILCS 5/2-702)

7 Sec. 2-702. Petition for a certificate of innocence that
8 the petitioner was innocent of all offenses for which he or she
9 was incarcerated.

10 (a) The General Assembly finds and declares that innocent
11 persons who have been wrongly convicted of crimes in Illinois
12 and subsequently imprisoned have been frustrated in seeking
13 legal redress due to a variety of substantive and technical
14 obstacles in the law and that such persons should have an
15 available avenue to obtain a finding of innocence so that they
16 may obtain relief through a petition in the Court of Claims.
17 The General Assembly further finds misleading the current legal
18 nomenclature which compels an innocent person to seek a pardon
19 for being wrongfully incarcerated. It is the intent of the
20 General Assembly that the court, in exercising its discretion
21 as permitted by law regarding the weight and admissibility of
22 evidence submitted pursuant to this Section, shall, in the
23 interest of justice, give due consideration to difficulties of
24 proof caused by the passage of time, the death or

1 unavailability of witnesses, the destruction of evidence or
2 other factors not caused by such persons or those acting on
3 their behalf.

4 (b) Any person convicted and subsequently imprisoned for
5 one or more felonies by the State of Illinois which he or she
6 did not commit may, under the conditions hereinafter provided,
7 file a petition for certificate of innocence in the circuit
8 court of the county in which the person was convicted. The
9 petition shall request a certificate of innocence finding that
10 the petitioner was innocent of all offenses for which he or she
11 was incarcerated.

12 (c) In order to present the claim for certificate of
13 innocence of an unjust conviction and imprisonment, the
14 petitioner must attach to his or her petition documentation
15 demonstrating that:

16 (1) he or she has been convicted of one or more
17 felonies by the State of Illinois and subsequently
18 sentenced to a term of imprisonment, and has served all or
19 any part of the sentence; and

20 (2) his or her judgment of conviction was reversed or
21 vacated, and the indictment or information dismissed or, if
22 a new trial was ordered, either he or she was found not
23 guilty at the new trial or he or she was not retried and
24 the indictment or information dismissed; or the statute, or
25 application thereof, on which the indictment or
26 information was based violated the Constitution of the

1 United States or the State of Illinois; and

2 (3) his or her claim is not time barred by the
3 provisions of subsection (i) of this Section.

4 (d) The petition shall state facts in sufficient detail to
5 permit the court to find that the petitioner is likely to
6 succeed at trial in proving that the petitioner is innocent of
7 the offenses charged in the indictment or information or his or
8 her acts or omissions charged in the indictment or information
9 did not constitute a felony or misdemeanor against the State of
10 Illinois, and the petitioner did not by his or her own conduct
11 voluntarily cause or bring about his or her conviction. The
12 petition shall be verified by the petitioner.

13 (e) A copy of the petition shall be served on the Attorney
14 General and the State's Attorney of the county where the
15 conviction was had. The Attorney General and the State's
16 Attorney of the county where the conviction was had shall have
17 the right to intervene as parties.

18 (f) In any hearing seeking a certificate of innocence, the
19 court may take judicial notice of prior sworn testimony or
20 evidence admitted in the criminal proceedings related to the
21 convictions which resulted in the alleged wrongful
22 incarceration, if the petitioner was either represented by
23 counsel at such prior proceedings or the right to counsel was
24 knowingly waived.

25 (g) In order to obtain a certificate of innocence the
26 petitioner must prove by a preponderance of evidence that:

1 (1) the petitioner was convicted of one or more
2 felonies by the State of Illinois and subsequently
3 sentenced to a term of imprisonment, and has served all or
4 any part of the sentence;

5 (2) (A) the judgment of conviction was reversed or
6 vacated, and the indictment or information dismissed or, if
7 a new trial was ordered, either the petitioner was found
8 not guilty at the new trial or the petitioner was not
9 retried and the indictment or information dismissed; or (B)
10 the statute, or application thereof, on which the
11 indictment or information was based violated the
12 Constitution of the United States or the State of Illinois;

13 (3) the petitioner is innocent of the offenses charged
14 in the indictment or information or his or her acts or
15 omissions charged in the indictment or information did not
16 constitute a felony or misdemeanor against the State; and

17 (4) the petitioner did not by his or her own conduct
18 voluntarily cause or bring about his or her conviction.

19 (h) If the court finds that the petitioner is entitled to a
20 judgment, it shall enter a certificate of innocence finding
21 that the petitioner was innocent of all offenses for which he
22 or she was incarcerated. Upon entry of the certificate of
23 innocence or pardon from the Governor stating that such pardon
24 was issued on the ground of innocence of the crime for which he
25 or she was imprisoned, (1) the clerk of the court shall
26 transmit a copy of the certificate of innocence to the clerk of

1 the Court of Claims, together with the claimant's current
2 address; and (2) the court shall enter an order expunging or
3 sealing the record of arrest from the official records of the
4 arresting authority and order that the records of the clerk of
5 the circuit court and Department of State Police be sealed
6 until further order of the court upon good cause shown or as
7 otherwise provided herein, and the name of the defendant
8 obliterated from the official index requested to be kept by the
9 circuit court clerk under Section 16 of the Clerks of Courts
10 Act in connection with the arrest and conviction for the
11 offense but the order shall not affect any index issued by the
12 circuit court clerk before the entry of the order.

13 (i) Any person seeking a certificate of innocence under
14 this Section based on the dismissal of an indictment or
15 information or acquittal that occurred before the effective
16 date of this amendatory Act of the 95th General Assembly shall
17 file his or her petition within 2 years after the effective
18 date of this amendatory Act of the 95th General Assembly. Any
19 person seeking a certificate of innocence under this Section
20 based on the dismissal of an indictment or information or
21 acquittal that occurred on or after the effective date of this
22 amendatory Act of the 95th General Assembly shall file his or
23 her petition within 2 years after the dismissal.

24 (j) The decision to grant or deny a certificate of
25 innocence shall be binding only with respect to claims filed in
26 the Court of Claims and shall not have a res judicata effect on

1 any other proceedings.

2 (Source: P.A. 95-970, eff. 9-22-08.)

3 Section 99. Effective date. This Act takes effect July 1,
4 2011.".